

Terms and conditions: Next[®] in the Cloud services

nextway[®]

We make companies more efficient and people's lives at work easier. We replace processes that involve paper documents, Post-its, spreadsheets, and emails with easy-to-use software. Our Next smart process applications boost corporate efficiency, scalability, and the personal joy of work. Since 1986, we have served our customers from all over the world, through a network of certified partners and own offices in Denmark, Finland, Germany, Norway, Sweden, Switzerland, and the UK.

making good business run better.

These terms and conditions

These terms and conditions apply to the cloud services part of any subscription to a Next® in Cloud offering. Terms & Conditions: Next® software you subscribe to, covers the software element of the offering.

Only for software you subscribe to as Next® in the Cloud.

This edition is relevant only for Next® software products you subscribe to and run in our standardized cloud environment — Next® in the Cloud. If you run Next® on your own servers, in a datacenter of your choice, at a cloud service of your choice, or even with us as Next® as a Service, this edition is not relevant.

The purpose of these terms and conditions is to protect yours, ours, and third parties' fair interests. They constitute an agreement between you (or the company you represent) and Nextway Software A/S.

If you do not accept this agreement, do not use Next® in the Cloud.

Warranty and claims

Cloud services to run Next® on Azure

We provide you with cloud services to run your Next® using Azure from Microsoft. Despite our best efforts, and the fact that we have based our offering on Microsoft Azure, we cannot guarantee uninterrupted services. Microsoft has a guaranteed uptime and we pass that on to you with a small margin for our mistakes. We strive to make the solution available to you from 02:00 to 24:00 CET, Monday to Sunday.

In calculating the up-time you do not count planned downtime. Both we and Microsoft will do our utmost to keep such planned downtime to a minimum, and if at all possible in a service window from 20:00 CET to 06:00 CET. Planned downtime is announced on our website, where you may subscribe to an email notification.

You also do not count downtime caused by incidents outside the control of either us or Microsoft. Besides acts of God, war, pandemics, labor strikes, and natural disasters this also accounts for network outages, denial of services attacks, and other acts of malicious code.

Well-defined SLA and if we fail we pay

Our only compensation from Microsoft, if they fail to deliver on their guaranteed uptime, are so-called service credits. We offer you exactly the same.

Actual up time	Service credit
< 99,5%	10%
< 95,0%	25%
< 90,0%	100%

If during a calendar month you experience an uptime of less than 99,5%, please send us your service credit request. If the downtime is caused by matters within the control of either us or Microsoft, we will issue you a service credit. The service credit is calculated based on your monthly (pro rata) fee for the affected Next® in the Cloud subscription. You can use this service credit against any future invoice related to Next® in the Cloud.

We offer you no other compensation related to downtime than this.

This warranty replaces all other warranties, including any implied warranty.

Your responsibilities

You have responsibilities too

You as a customer must secure that:

- the Next® in the Cloud offering is suitable for your specific business needs.
- your users have an adequate internet access, an up to date internet browser, and a suitable device free from malicious software.
- your users observe sound security behavior related to user profiles, passwords, and computer virus.
- you maintain a restrictive setup in Next®, where no one has access to more than they need.
- you always archive and keep only information that you are allowed to.

We and Microsoft will keep your data safe in the data center and during transmission. But to keep your data safe from reckless or malicious users on your side is your responsibility. We are happy to help you, but the responsibility is on you.

Subscription fees and periods

Predictable subscription fees

For each subscription period we calculate the subscription fee for our Next® in the Cloud offering based on a Next® software product value and the anticipated services costs. The subscription fee depends on your license — product, features, and the number of users etc. Also, the subscription period influences your fee. Longer periods are less expensive than shorter periods.

Within the active subscription period, the subscription fee only changes if you add to your subscription — products, features, users, or services. Or if we exercise our right to address issues as described under Fair usage.

Security

We and Microsoft protect your data

All Next® in the Cloud data is stored at Microsoft's datacenter in the Netherlands. The data center is certified to the highest levels: ISO 27001, HIPAA, FedRAMP, SOC 1, and SOC 2.

When data is transferred from Next® to your devices it is protected by industry standard encryption — currently TLS v1.2.

Backup and recovery

As part of your Next® in the Cloud subscription data are replicated between Microsoft's data centers in Ireland and the Netherlands. Each night, a full backup of all data is conducted. This backup is available for 30 days. Any services to recover data from a general data center incident is covered by your subscription. Should you wish to access your individual data from a backup, we will provide you with this on a time and material basis.

System updates

We keep your Next® solution up to date

As part of your Next® in the Cloud subscription we keep your Next® solution up to date. At least four times each year — and according to a schedule we share on our website — we update both the system software, and the Next® products.

Product updates may require adjustments in your specific setup, or custom extensions. We document such prerequisites as part of our software services. Any efforts needed to make such adjustments are your responsibility, and any assistance you require from us will be invoiced.

Liability

A professional supplier, but with limited liability

We accept the responsibilities of being a professional supplier, and we have reasonable insurance coverage. However, we cannot be held liable for incidental, indirect, consequential, or unforeseeable losses including: damage or expense, loss of profits, loss of business, loss of opportunity, and loss of or corruption of data.

If you are entitled to seek compensation from us regarding any claim, it may never exceed the fee you have paid us for the Next® software product. If you seek economic compensation beyond this, you must take out appropriate insurance coverage.

Force majeure

Neither of us will be held responsible for failing to perform our obligations because of a force majeure event, such as: war, strike, extreme weather, disturbances in the public telecommunication network, interference with the internet connection or similar events, provided that we could not anticipate this when we made the agreement.

Severability

We serve customers in many countries, and local legislation may collide with one or more of our terms and conditions. If any single term or condition is found to be invalid or unenforceable, the remaining are unaffected.

Changes to these terms

Terms may change

Additions or modifications to these terms and conditions are only valid if they are in writing and are signed and confirmed by us. Resellers and local Nextway offices are not authorized to make such additions or amendments.

Our customer relations typically last for decades. As technology and business environments change more rapidly, we need to be able to adjust our terms and conditions accordingly. We reserve the right to change these terms and conditions with 12 months' notice. Notification will happen by email and on our website.

Choice of cloud platform

Azure may not be forever

At the time of writing, all Next® in the Cloud solutions are run on Microsoft's cloud platform Azure.

Azure is one of the leading cloud platforms with consistent performance, security, and reliability. This may change in the future, and that's why we are entitled to move all or selected services and solutions to another cloud platform, provided it materially delivers the same level of performance, reliability, security, and protection of personal data.

Termination

You may downgrade or terminate your subscription to a Next® in the Cloud offering with three months' notice at the end of each subscription period. You do so with a written notification to us. If we receive no termination or downgrade, the subscription is automatically renewed for another period. Terminations and downgrades are not in effect until you have received a written confirmation from us.

Only if you materially neglect to comply with this agreement, and only if you fail to adhere when asked to do so in writing (email), can we, with 30 days prior written notice, terminate your subscription.

Export your data before the subscription ends

When the subscription termination is effective, you will no longer be able to access your data in Next®. 30 days after the termination is effective, we have no obligation or right to keep your data. The data will then be deleted.

Terminating a subscription does not eliminate your obligation to pay the agreed subscription fee — already invoiced or not — unless the termination is caused by our material breach of this agreement.

Fair usage

If you exhaust our services, we must talk

When you sign up for Next® in the Cloud, we deliver cloud services from Microsoft. Our subscription fees are calculated from the size of your license — typically the number of users and documents.

If your specific use of Next® in the Cloud differs substantially from the average use, in a way that puts extraordinary strain on the cloud environment, we are entitled to address this. We will initially advise you on how to normalize your use. If that does not resolve the issue, we will suggest you a fee-based addition to your subscription, to cover the unforeseen strain. If we cannot agree to this, we are entitled to cancel your subscription with 3 months' notice. We will then refund you pro rata, the unconsumed part of any prepaid subscription fees.

Trial licenses

When we provide you with a time limited trial license we do so for free. This also means that you can use the cloud services only for trial and testing, not for production. We provide the services under a trial license 'as is', with no warranties or liabilities whatsoever.

Transfer

We may transfer our rights and obligations in relation to this agreement to a third party with prior 90 days written notice. This right can only be executed without your individual consent if it is part of a general restructure, merger, or acquisition.

Disputes

Local law and in due time

The agreement is governed by the laws of Denmark. If you have engaged with a local Nextway office outside of Denmark, the laws of this country apply. The venue is the court of law of where the Nextway office is located.

Neither of us may take legal action arising from this agreement more than 12 months from the time when we initially had the opportunity to do so.

What we changed

This is the first edition of our terms and conditions for Next® in the Cloud services.

Definitions

agreement: if you acquired the Next® software subscription from a third party, these terms and conditions together with the Next® license entitlement constitute our mutual agreement. If the delivery is made by Nextway, the order confirmation, any documents mentioned in the order confirmation, and these terms and conditions constitute our mutual agreement.

best practices: a methodology that, through our — and others' — experience, has proven to reliably lead to the desired result. All with reasonable efforts, and consistent with good business and IT practices.

business relevant: any mail (or other correspondence) with Nextway staff is considered business relevant unless it is clearly marked #PRIVATE. Business relevant correspondence is automatically filed in our Next® Enterprise Archive.

consultancy services: any task performed by Nextway Professional Services staff in the areas of: advising, analysis, configuration, design, development, documentation, implementation, testing, and training.

custom software: software developed to the specifications of you or others. Custom software comes without any of the provisions you would expect of a standard software product.

extended named users: each individual, named person (and system) that accesses the software (directly or through other systems) count. If you serve many external users, it is cost effective to add the External Access feature to your license.

External Access feature: a license feature that allows you to add numerous external, named users to a Next® software product at a lower price point.

external user: any individual accessing the Next® software product who is not an Internal User.

internal user: any individual, named person employed by the company holding the license or working in the interest of this company – e.g. providing business process outsourcing services. Your customers, suppliers, and partners are not considered internal users.

license: a non-exclusive right to use a Next® software product on the terms and conditions specified in this document. The exact license content is documented in the Next® License Entitlement.

Nextway: an international software vendor with legal entities in several countries. For all practical purposes, you deal with Nextway as if it was one legal entity.

Next® Enterprise License: a special license form with few or no usage restrictions. This license is typically used by companies looking to deploy Next® software products broadly.

Next® High Availability License: an additional license that allows you to install one or more copies of a Next® software product to serve in a hot or cold high availability setup. The license comes at a reduced license fee.

Next® License Entitlement: a formal document listing the licensed Next® software product, features, and usage restrictions.

Next® Service Provider License: a special license that allows you to offer paid services to third parties based on a Next® software product. The license comes at an additional license fee.

Next® Support Ticket: a way to purchase help desk support, if you have a Next® Software Support Plan without help desk support included. Look up nextway.software/tickets for the details.

Next® Quality Assurance License: an additional license that allows you to install one or more copies of a Next® software product to serve in a setup for test and training. This license comes at a reduced license fee.

Next® software product: a standard software product owned, developed, maintained, and made generally available by Nextway Software A/S. Product documentation (technical product configuration, technical product specifications, user manuals and guidelines) provided with the software or made available by us on nextway.software is part of the Next® software product. Any extensions to the Next® software product delivered as custom software are not part of the Next® software product. The use of Next® software products is regulated by: 'Terms and conditions for Next® software products.'

Next® Software Service Plan: a prepackaged offering complementing your software license with product updates, bug fixes, and help desk support. Look up nextway.software/plans to see the different options.

product updates: new features and bug fixes developed for the Next® software product. Product updates are continuously made available on nextway.software for customers with an active Next® Software Service Plan.

standard software products: a standard software product owned, developed, maintained, and made generally available by a third party through Nextway or a Next® software product owned by Nextway Software A/S

software services: all the services complementing a professional standard software product — product documentation, help desk, road map, product updates, and online training.

subscription: a way to acquire software without making a huge one-time upfront investment. Instead you pay as you go.

Subscription fee: the periodic fee you pay for using the software. The fee is calculated based on the value of the software you subscribe to – actual product, features and the maximum number of users.

Subscription period: the period of time you have committed to paying for the software. A longer subscription period allows us to offer a better price. A shorter subscription period allows us to offer a greater flexibility.

sunset: when a Next® software product is no longer developed and marketed.

terms and conditions: a written document outlining the obligations and rights imposed on the parties entering into an agreement regarding a delivery. Specific terms and conditions always take priority over more generic terms and conditions.

usage restrictions: allow you to acquire Next® software products for a specific use at a considerably lower price point than if you were to acquire a completely unlimited version of the product. Typical restrictions are: number of users, number of documents, and selected features. But other restrictions exist. What restrictions apply to your license is documented in the Next® License Entitlement and the product documentation.

software: computer code and supporting documentation. Software comes as custom software or standard software products.

software license: a non-exclusive license to use a standard software product on your own servers, in a data center of your choice, or as a cloud service. Licenses for Nextway's Next® software products are issued by Nextway Software A/S.

trial license: a time limited license to use a Next® software product or an additional feature for testing purposes.